

Senate Engrossed House Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

CHAPTER 75

## **HOUSE BILL 2031**

AN ACT

AMENDING SECTIONS 15-183, 15-203, 15-512, 15-534, 15-550, 41-1758 AND  
41-1758.01, ARIZONA REVISED STATUTES; RELATING TO SCHOOL EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to  
3 read:

4 15-183. Charter schools; application; requirements; immunity;  
5 exemptions; renewal of application; reprisal

6 A. An applicant seeking to establish a charter school shall submit a  
7 written application to a proposed sponsor as prescribed in subsection C of  
8 this section. The application shall include a detailed business plan for the  
9 charter school and may include a mission statement for the charter school, a  
10 description of the charter school's organizational structure and the  
11 governing body, a financial plan for the first three years of operation of  
12 the charter school, a description of the charter school's hiring policy, the  
13 name of the charter school's applicant or applicants and requested sponsor, a  
14 description of the charter school's facility and the location of the school,  
15 a description of the grades being served and an outline of criteria designed  
16 to measure the effectiveness of the school.

17 B. The sponsor of a charter school may contract with a public body,  
18 private person or private organization for the purpose of establishing a  
19 charter school pursuant to this article.

20 C. The sponsor of a charter school may be either a school district  
21 governing board, the state board of education or the state board for charter  
22 schools, subject to the following requirements:

23 1. For charter schools that submit an application for sponsorship to a  
24 school district governing board:

25 (a) An applicant for a charter school may submit its application to a  
26 school district governing board, which shall either accept or reject  
27 sponsorship of the charter school within ninety days. An applicant may  
28 submit a revised application for reconsideration by the governing board. If  
29 the governing board rejects the application, the governing board shall notify  
30 the applicant in writing of the reasons for the rejection. The applicant may  
31 request, and the governing board may provide, technical assistance to improve  
32 the application.

33 (b) In the first year that a school district is determined to be out  
34 of compliance with the uniform system of financial records, within fifteen  
35 days of the determination of noncompliance, the school district shall notify  
36 by certified mail each charter school sponsored by the school district that  
37 the school district is out of compliance with the uniform system of financial  
38 records. The notification shall include a statement that if the school  
39 district is determined to be out of compliance for a second consecutive year,  
40 the charter school will be required to transfer sponsorship to another entity  
41 pursuant to subdivision (c) of this paragraph.

42 (c) In the second consecutive year that a school district is  
43 determined to be out of compliance with the uniform system of financial  
44 records, within fifteen days of the determination of noncompliance, the  
45 school district shall notify by certified mail each charter school sponsored

1 by the school district that the school district is out of compliance with the  
2 uniform system of financial records. A charter school that receives a  
3 notification of school district noncompliance pursuant to this subdivision  
4 shall file a written sponsorship transfer application within forty-five days  
5 with the state board of education, the state board for charter schools or the  
6 school district governing board if the charter school is located within the  
7 geographic boundaries of that school district. A charter school that  
8 receives a notification of school district noncompliance may request an  
9 extension of time to file a sponsorship transfer application and the state  
10 board of education, the state board for charter schools or a school district  
11 governing board may grant an extension of not more than an additional thirty  
12 days if good cause exists for the extension. The state board of education  
13 and the state board for charter schools shall approve a sponsorship transfer  
14 application pursuant to this paragraph.

15 (d) Beginning July 1, 2000, a school district governing board shall  
16 not grant a charter to a charter school that is located outside the  
17 geographic boundaries of that school district.

18 (e) A school district that has been determined to be out of compliance  
19 with the uniform system of financial records during either of the previous  
20 two fiscal years shall not sponsor a new or transferring charter school.

21 2. The applicant may submit the application to the state board of  
22 education or the state board for charter schools. The state board of  
23 education or the state board for charter schools may approve the application  
24 if the application meets the requirements of this article and may approve the  
25 charter if the proposed sponsor determines, within its sole discretion, that  
26 the applicant is sufficiently qualified to operate a charter school. The  
27 state board of education or the state board for charter schools may approve  
28 any charter schools transferring charters. The state board of education and  
29 the state board for charter schools shall approve any charter schools  
30 transferring charters from a school district that is determined to be out of  
31 compliance with the uniform system of financial records pursuant to this  
32 section, but may require the charter school to sign a new charter that is  
33 equivalent to the charter awarded by the former sponsor. If the state board  
34 of education or the state board for charter schools rejects the preliminary  
35 application, the state board of education or the state board for charter  
36 schools shall notify the applicant in writing of the reasons for the  
37 rejection and of suggestions for improving the application. An applicant may  
38 submit a revised application for reconsideration by the state board of  
39 education or the state board for charter schools. The applicant may request,  
40 and the state board of education or the state board for charter schools may  
41 provide, technical assistance to improve the application.

42 3. Each applicant seeking to establish a charter school shall submit a  
43 full set of fingerprints to the approving agency for the purpose of obtaining  
44 a state and federal criminal records check pursuant to section 41-1750 and  
45 Public Law 92-544. If an applicant will have direct contact with students,

1 the applicant shall possess a valid fingerprint clearance card that is issued  
2 pursuant to title 41, chapter 12, article 3.1. The department of public  
3 safety may exchange this fingerprint data with the federal bureau of  
4 investigation. The criminal records check shall be completed before the  
5 issuance of a charter.

6 4. All persons engaged in instructional work directly as a classroom,  
7 laboratory or other teacher or indirectly as a supervisory teacher, speech  
8 therapist or principal shall have a valid fingerprint clearance card that is  
9 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a  
10 volunteer or guest speaker who is accompanied in the classroom by a person  
11 with a valid fingerprint clearance card. A charter school shall not employ a  
12 teacher whose certificate has been revoked for a violation of section 15-507  
13 or 15-550 or for any offense that placed a pupil in danger. All other  
14 personnel shall be fingerprint checked pursuant to section 15-512. Before  
15 employment, the charter school shall make documented, good faith efforts to  
16 contact previous employers of a person to obtain information and  
17 recommendations that may be relevant to a person's fitness for employment as  
18 prescribed in section 15-512, subsection F. The charter school shall notify  
19 the department of public safety if the charter school or sponsor receives  
20 credible evidence that a person who possesses a valid fingerprint clearance  
21 card is arrested for or is charged with an offense listed in section  
22 41-1758.03, subsection B. Charter schools may hire personnel that have not  
23 yet received a fingerprint clearance card if proof is provided of the  
24 submission of an application to the department of public safety for a  
25 fingerprint clearance card and if the charter school that is seeking to hire  
26 the applicant does all of the following:

27 (a) Documents in the applicant's file the necessity for hiring and  
28 placement of the applicant before receiving a fingerprint clearance card.

29 (b) Ensures that the department of public safety completes a statewide  
30 criminal records check on the applicant. A statewide criminal records check  
31 shall be completed by the department of public safety every one hundred  
32 twenty days until the date that the fingerprint check is completed.

33 (c) Obtains references from the applicant's current employer and the  
34 two most recent previous employers except for applicants who have been  
35 employed for at least five years by the applicant's most recent employer.

36 (d) Provides general supervision of the applicant until the date that  
37 the fingerprint card is obtained.

38 (e) Completes a search of criminal records in all local jurisdictions  
39 outside of this state in which the applicant has lived in the previous five  
40 years.

41 (f) Verifies the fingerprint status of the applicant with the  
42 department of public safety.

43 5. A CHARTER SCHOOL THAT COMPLIES WITH THE FINGERPRINTING REQUIREMENTS  
44 OF THIS SECTION SHALL BE DEEMED TO HAVE COMPLIED WITH SECTION 15-512 AND IS

1 ENTITLED TO THE SAME RIGHTS AND PROTECTIONS PROVIDED TO SCHOOL DISTRICTS BY  
2 SECTION 15-512.

3 ~~5-~~ 6. If a charter school operator is not already subject to a public  
4 meeting or hearing by the municipality in which the charter school is  
5 located, the operator of a charter school shall conduct a public meeting at  
6 least thirty days before the charter school operator opens a site or sites  
7 for the charter school. The charter school operator shall post notices of  
8 the public meeting in at least three different locations that are within  
9 three hundred feet of the proposed charter school site.

10 ~~6-~~ 7. A person who is employed by a charter school or who is an  
11 applicant for employment with a charter school, who is arrested for or  
12 charged with a nonappealable offense listed in section 41-1758.03, subsection  
13 B and who does not immediately report the arrest or charge to the person's  
14 supervisor or potential employer is guilty of unprofessional conduct and the  
15 person shall be immediately dismissed from employment with the charter school  
16 or immediately excluded from potential employment with the charter school.

17 ~~7-~~ 8. A person who is employed by a charter school and who is  
18 convicted of any nonappealable offense listed in section 41-1758.03,  
19 subsection B or is convicted of any nonappealable offense that amounts to  
20 unprofessional conduct under section 15-550 shall immediately do all of the  
21 following:

22 (a) Surrender any certificates issued by the department of education.

23 (b) Notify the person's employer or potential employer of the  
24 conviction.

25 (c) Notify the department of public safety of the conviction.

26 (d) Surrender the person's fingerprint clearance card.

27 D. A board that is authorized to sponsor charter schools pursuant to  
28 this article has no legal authority over or responsibility for a charter  
29 school sponsored by a different board. This subsection does not apply to the  
30 state board of education's duty to exercise general supervision over the  
31 public school system pursuant to section 15-203, subsection A, paragraph 1.

32 E. The charter of a charter school shall ensure the following:

33 1. Compliance with federal, state and local rules, regulations and  
34 statutes relating to health, safety, civil rights and insurance. The  
35 department of education shall publish a list of relevant rules, regulations  
36 and statutes to notify charter schools of their responsibilities under this  
37 paragraph.

38 2. That it is nonsectarian in its programs, admission policies and  
39 employment practices and all other operations.

40 3. That it provides a comprehensive program of instruction for at  
41 least a kindergarten program or any grade between grades one and twelve,  
42 except that a school may offer this curriculum with an emphasis on a specific  
43 learning philosophy or style or certain subject areas such as mathematics,  
44 science, fine arts, performance arts or foreign language.

1           4. That it designs a method to measure pupil progress toward the pupil  
2 outcomes adopted by the state board of education pursuant to section  
3 15-741.01, including participation in the Arizona instrument to measure  
4 standards test and the nationally standardized norm-referenced achievement  
5 test as designated by the state board and the completion and distribution of  
6 an annual report card as prescribed in chapter 7, article 3 of this title.

7           5. That, except as provided in this article and in its charter, it is  
8 exempt from all statutes and rules relating to schools, governing boards and  
9 school districts.

10          6. That, except as provided in this article, it is subject to the same  
11 financial and electronic data submission requirements as a school district,  
12 including the uniform system of financial records as prescribed in chapter 2,  
13 article 4 of this title, procurement rules as prescribed in section 15-213  
14 and audit requirements. The auditor general shall conduct a comprehensive  
15 review and revision of the uniform system of financial records to ensure that  
16 the provisions of the uniform system of financial records that relate to  
17 charter schools are in accordance with commonly accepted accounting  
18 principles used by private business. A school's charter may include  
19 exceptions to the requirements of this paragraph that are necessary as  
20 determined by the district governing board, the state board of education or  
21 the state board for charter schools. The department of education or the  
22 office of the auditor general may conduct financial, program or compliance  
23 audits.

24          7. Compliance with all federal and state laws relating to the  
25 education of children with disabilities in the same manner as a school  
26 district.

27          8. That it provides for a governing body for the charter school that  
28 is responsible for the policy decisions of the charter school.

29          9. That it provides a minimum of one hundred seventy-five  
30 instructional days before June 30 of each fiscal year unless it is operating  
31 on an alternative calendar approved by its sponsor. The superintendent of  
32 public instruction shall adjust the apportionment schedule accordingly to  
33 accommodate a charter school utilizing an alternative calendar.

34          F. The charter of a charter school shall include a description of the  
35 charter school's personnel policies, personnel qualifications and method of  
36 school governance and the specific role and duties of the sponsor of the  
37 charter school. A charter school shall keep on file the resumes of all  
38 current and former employees who provide instruction to pupils at the charter  
39 school. Resumes shall include an individual's educational and teaching  
40 background and experience in a particular academic content subject area. A  
41 charter school shall inform parents and guardians of the availability of the  
42 resume information and shall make the resume information available for  
43 inspection on request of parents and guardians of pupils enrolled at the  
44 charter school. Nothing in this subsection shall be construed to require any  
45 charter school to release personally identifiable information in relation to

1 any teacher or employee including the teacher's or employee's address,  
2 salary, social security number or telephone number.

3 G. The charter of a charter school may be amended at the request of  
4 the governing body of the charter school and on the approval of the sponsor.

5 H. Charter schools may contract, sue and be sued.

6 I. An approved plan to establish a charter school is effective for  
7 fifteen years from the first day of operation. At least eighteen months  
8 before the expiration of the approved plan, the sponsor shall notify the  
9 charter school that the charter school may apply for renewal. A charter  
10 school that elects to apply for renewal shall file an application for renewal  
11 at least fifteen months before the expiration of the approved plan. In  
12 addition to any other requirements, the application for renewal shall include  
13 a detailed business plan for the charter school. The sponsor may deny the  
14 request for renewal if, in its judgment, the charter school has failed to  
15 complete the obligations of the contract or has failed to comply with this  
16 article. A sponsor shall give written notice of its intent not to renew the  
17 charter school's request for renewal to the charter school at least twelve  
18 months before the expiration of the approved plan to allow the charter school  
19 an opportunity to apply to another sponsor to transfer the operation of the  
20 charter school. If the operation of the charter school is transferred to  
21 another sponsor, the fifteen year period of the current charter shall be  
22 maintained. A sponsor shall review a charter at five year intervals and may  
23 revoke a charter at any time if the charter school breaches one or more  
24 provisions of its charter. At least ninety days before the effective date of  
25 the proposed revocation the sponsor shall give written notice to the operator  
26 of the charter school of its intent to revoke the charter. Notice of the  
27 sponsor's intent to revoke the charter shall be delivered personally to the  
28 operator of the charter school or sent by certified mail, return receipt  
29 requested, to the address of the charter school. The notice shall  
30 incorporate a statement of reasons for the proposed revocation of the  
31 charter. The sponsor shall allow the charter school at least ninety days to  
32 correct the problems associated with the reasons for the proposed revocation  
33 of the charter. The final determination of whether to revoke the charter  
34 shall be made at a public hearing called for such purpose.

35 J. After renewal of the charter at the end of the fifteen year period  
36 described in subsection I of this section, the charter may be renewed for  
37 successive periods of fifteen years if the charter school and its sponsor  
38 deem that the school is in compliance with its own charter and this article.

39 K. A charter school that is sponsored by the state board of education  
40 or the state board for charter schools may not be located on the property of  
41 a school district unless the district governing board grants this authority.

42 L. A governing board or a school district employee who has control  
43 over personnel actions shall not take unlawful reprisal against another  
44 employee of the school district because the employee is directly or  
45 indirectly involved in an application to establish a charter school. A

1 governing board or a school district employee shall not take unlawful  
2 reprisal against an educational program of the school or the school district  
3 because an application to establish a charter school proposes the conversion  
4 of all or a portion of the educational program to a charter school. For the  
5 purposes of this subsection, "unlawful reprisal" means an action that is  
6 taken by a governing board or a school district employee as a direct result  
7 of a lawful application to establish a charter school and that is adverse to  
8 another employee or an education program and:

9 1. With respect to a school district employee, results in one or more  
10 of the following:

- 11 (a) Disciplinary or corrective action.
- 12 (b) Detail, transfer or reassignment.
- 13 (c) Suspension, demotion or dismissal.
- 14 (d) An unfavorable performance evaluation.
- 15 (e) A reduction in pay, benefits or awards.
- 16 (f) Elimination of the employee's position without a reduction in  
17 force by reason of lack of monies or work.
- 18 (g) Other significant changes in duties or responsibilities that are  
19 inconsistent with the employee's salary or employment classification.

20 2. With respect to an educational program, results in one or more of  
21 the following:

- 22 (a) Suspension or termination of the program.
- 23 (b) Transfer or reassignment of the program to a less favorable  
24 department.
- 25 (c) Relocation of the program to a less favorable site within the  
26 school or school district.
- 27 (d) Significant reduction or termination of funding for the program.

28 M. Charter schools shall secure insurance for liability and property  
29 loss. The governing body of a charter school that is sponsored by the state  
30 board of education or the state board for charter schools may enter into an  
31 intergovernmental agreement or otherwise contract to participate in an  
32 insurance program offered by a risk retention pool established pursuant to  
33 section 11-952.01 or 41-621.01 or the charter school may secure its own  
34 insurance coverage. The pool may charge the requesting charter school  
35 reasonable fees for any services it performs in connection with the insurance  
36 program.

37 N. Charter schools do not have the authority to acquire property by  
38 eminent domain.

39 O. A sponsor, including members, officers and employees of the  
40 sponsor, is immune from personal liability for all acts done and actions  
41 taken in good faith within the scope of its authority.

42 P. Charter school sponsors and this state are not liable for the debts  
43 or financial obligations of a charter school or persons who operate charter  
44 schools.



1       Q. The sponsor of a charter school shall establish procedures to  
2 conduct administrative hearings on determination by the sponsor that grounds  
3 exist to revoke a charter. Procedures for administrative hearings shall be  
4 similar to procedures prescribed for adjudicative proceedings in title 41,  
5 chapter 6, article 10. Except as provided in section 41-1092.08, subsection  
6 H, final decisions of the state board of education and the state board for  
7 charter schools from hearings conducted pursuant to this subsection are  
8 subject to judicial review pursuant to title 12, chapter 7, article 6.

9       R. The sponsoring entity of a charter school shall have oversight and  
10 administrative responsibility for the charter schools that it sponsors.

11       S. Charter schools may pledge, assign or encumber their assets to be  
12 used as collateral for loans or extensions of credit.

13       T. All property accumulated by a charter school shall remain the  
14 property of the charter school.

15       U. Charter schools may not locate a school on property that is less  
16 than one-fourth mile from agricultural land regulated pursuant to section  
17 3-365, except that the owner of the agricultural land may agree to comply  
18 with the buffer zone requirements of section 3-365. If the owner agrees in  
19 writing to comply with the buffer zone requirements and records the agreement  
20 in the office of the county recorder as a restrictive covenant running with  
21 the title to the land, the charter school may locate a school within the  
22 affected buffer zone. The agreement may include any stipulations regarding  
23 the charter school, including conditions for future expansion of the school  
24 and changes in the operational status of the school that will result in a  
25 breach of the agreement.

26       V. A transfer of a charter to another sponsor, a transfer of a charter  
27 school site to another sponsor or a transfer of a charter school site to a  
28 different charter shall be completed before the beginning of the fiscal year  
29 that the transfer is scheduled to become effective. An entity that sponsors  
30 charter schools may accept a transferring school after the beginning of the  
31 fiscal year if the transfer is approved by the superintendent of public  
32 instruction. The superintendent of public instruction shall have the  
33 discretion to consider each transfer during the fiscal year on a case by case  
34 basis. If a charter school is sponsored by a school district that is  
35 determined to be out of compliance with this title, the uniform system of  
36 financial records or any other state or federal law, the charter school may  
37 transfer to another sponsoring entity at any time during the fiscal year.

38       W. The sponsoring entity may not charge any fees to a charter school  
39 that it sponsors unless the sponsor has provided services to the charter  
40 school and the fees represent the full value of those services provided by  
41 the sponsor. On request, the value of the services provided by the sponsor  
42 to the charter school shall be demonstrated to the department of education.

- 1           Sec. 2. Section 15-203, Arizona Revised Statutes, is amended to read:  
2           15-203. Powers and duties  
3           A. The state board of education shall:  
4           1. Exercise general supervision over and regulate the conduct of the  
5 public school system and adopt any rules and policies it deems necessary to  
6 accomplish this purpose.  
7           2. Keep a record of its proceedings.  
8           3. Make rules for its own government.  
9           4. Determine the policy and work undertaken by it.  
10          5. Appoint its employees, on the recommendation of the superintendent  
11 of public instruction.  
12          6. Prescribe the duties of its employees if not prescribed by statute.  
13          7. Delegate to the superintendent of public instruction the execution  
14 of board policies and rules.  
15          8. Recommend to the legislature changes or additions to the statutes  
16 pertaining to schools.  
17          9. Prepare, publish and distribute reports concerning the educational  
18 welfare of this state.  
19          10. Prepare a budget for expenditures necessary for proper maintenance  
20 of the board and accomplishment of its purposes and present the budget to the  
21 legislature.  
22          11. Aid in the enforcement of laws relating to schools.  
23          12. Prescribe a minimum course of study in the common schools, minimum  
24 competency requirements for the promotion of pupils from the third grade and  
25 minimum course of study and competency requirements for the promotion of  
26 pupils from the eighth grade. The state board of education shall prepare a  
27 fiscal impact statement of any proposed changes to the minimum course of  
28 study or competency requirements and, on completion, shall send a copy to the  
29 director of the joint legislative budget committee and the executive director  
30 of the school facilities board. The state board of education shall not adopt  
31 any changes in the minimum course of study or competency requirements in  
32 effect on July 1, 1998 that will have a fiscal impact on school capital  
33 costs.  
34          13. Prescribe minimum course of study and competency requirements for  
35 the graduation of pupils from high school. The state board of education  
36 shall prepare a fiscal impact statement of any proposed changes to the  
37 minimum course of study or competency requirements and, on completion, shall  
38 send a copy to the director of the joint legislative budget committee and the  
39 executive director of the school facilities board. The state board of  
40 education shall not adopt any changes in the minimum course of study or  
41 competency requirements in effect on July 1, 1998 that will have a fiscal  
42 impact on school capital costs.  
43          14. Supervise and control the certification of persons engaged in  
44 instructional work directly as any classroom, laboratory or other teacher or  
45 indirectly as a supervisory teacher, speech therapist, principal or

1 superintendent in a school district, including school district preschool  
2 programs, or any other educational institution below the community college,  
3 college or university level, and prescribe rules for certification, including  
4 rules for certification of teachers who have teaching experience and who are  
5 trained in other states, which are not unnecessarily restrictive and are  
6 substantially similar to the rules prescribed for the certification of  
7 teachers trained in this state. The rules shall require applicants for all  
8 certificates for common school instruction to complete a minimum of  
9 forty-five classroom hours or three college level credit hours, or the  
10 equivalent, of training in research based systematic phonics instruction from  
11 a public or private provider. The rules shall not require a teacher to  
12 obtain a master's degree or to take any additional graduate courses as a  
13 condition of certification or recertification. The rules shall allow a  
14 general equivalency diploma to be substituted for a high school diploma in  
15 the certification of emergency substitute teachers.

16 15. Adopt a list of approved tests for determining special education  
17 assistance to gifted pupils as defined in and as provided in chapter 7,  
18 article 4.1 of this title. The adopted tests shall provide separate scores  
19 for quantitative reasoning, verbal reasoning and nonverbal reasoning and  
20 shall be capable of providing reliable and valid scores at the highest ranges  
21 of the score distribution.

22 16. Adopt rules governing the methods for the administration of all  
23 proficiency examinations.

24 17. Adopt proficiency examinations for its use. The state board of  
25 education shall determine the passing score for the proficiency examination.

26 18. Include within its budget the cost of contracting for the purchase,  
27 distribution and scoring of the examinations as provided in paragraphs 16 and  
28 17 of this subsection.

29 19. Supervise and control the qualifications of professional  
30 nonteaching school personnel and prescribe standards relating to  
31 qualifications.

32 20. Impose such disciplinary action, including the issuance of a letter  
33 of censure, suspension, suspension with conditions or revocation of a  
34 certificate, upon a finding of immoral or unprofessional conduct.

35 21. Establish an assessment, data gathering and reporting system for  
36 pupil performance as prescribed in chapter 7, article 3 of this title.

37 22. Adopt a rule to promote braille literacy pursuant to section  
38 15-214.

39 23. Adopt rules prescribing procedures for the investigation by the  
40 department of education of every written complaint alleging that a  
41 certificated person has engaged in immoral conduct.

42 24. For purposes of federal law, serve as the state board for  
43 vocational and technological education and meet at least four times each year  
44 solely to execute the powers and duties of the state board for vocational and  
45 technological education.

1        25. Develop and maintain a handbook for use in the schools of this  
2 state that provides guidance for the teaching of moral, civic and ethical  
3 education. The handbook shall promote existing curriculum frameworks and  
4 shall encourage school districts to recognize moral, civic and ethical values  
5 within instructional and programmatic educational development programs for  
6 the general purpose of instilling character and ethical principles in pupils  
7 in kindergarten programs and grades one through twelve.

8        26. Require pupils to recite the following passage from the declaration  
9 of independence for pupils in grades four through six at the commencement of  
10 the first class of the day in the schools, except that a pupil shall not be  
11 required to participate if the pupil or the pupil's parent or guardian  
12 objects:

13                We hold these truths to be self-evident, that all men are  
14 created equal, that they are endowed by their creator with  
15 certain unalienable rights, that among these are life, liberty  
16 and the pursuit of happiness. That to secure these rights,  
17 governments are instituted among men, deriving their just powers  
18 from the consent of the governed. . . .

19        27. Adopt rules that provide for teacher certification reciprocity.  
20 The rules shall provide for a one year reciprocal teaching certificate with  
21 minimum requirements including valid teacher certification from a state with  
22 substantially similar criminal history or teacher fingerprinting requirements  
23 and proof of the submission of an application for a fingerprint clearance  
24 card pursuant to title 41, chapter 12, article 3.1.

25        28. Adopt rules that will be in effect until December 31, 2006 and that  
26 provide for the presentation of an honorary high school diploma to a person  
27 who has never obtained a high school diploma and who meets each of the  
28 following requirements:

29                (a) Is at least sixty-five years of age.

30                (b) Currently resides in this state.

31                (c) Provides documented evidence from the Arizona department of  
32 veterans' services that the person enlisted in the armed forces of the United  
33 States before completing high school in a public or private school.

34                (d) Was honorably discharged from service with the armed forces of the  
35 United States.

36        29. Cooperate with the Arizona-Mexico commission in the governor's  
37 office and with researchers at universities in this state to collect data and  
38 conduct projects in the United States and Mexico on issues that are within  
39 the scope of the duties of the department of education and that relate to  
40 quality of life, trade and economic development in this state in a manner  
41 that will help the Arizona-Mexico commission to assess and enhance the  
42 economic competitiveness of this state and of the Arizona-Mexico region.

43        30. Adopt rules to define and provide guidance to schools as to the  
44 activities that would constitute immoral or unprofessional conduct of  
45 certificated persons.

1        31. Adopt guidelines to encourage pupils in grades nine, ten, eleven  
2 and twelve to volunteer for twenty hours of community service before  
3 graduation from high school. A school district that complies with the  
4 guidelines adopted pursuant to this paragraph is not liable for damages  
5 resulting from a pupil's participation in community service unless the school  
6 district is found to have demonstrated wanton or reckless disregard for the  
7 safety of the pupil and other participants in community service. For the  
8 purposes of this paragraph, "community service" may include service  
9 learning. The guidelines shall include the following:

10        (a) A list of the general categories in which community service may be  
11 performed.

12        (b) A description of the methods by which community service will be  
13 monitored.

14        (c) A consideration of risk assessment for community service projects.

15        (d) Orientation and notification procedures of community service  
16 opportunities for pupils entering grade nine including the development of a  
17 notification form. The notification form shall be signed by the pupil and  
18 the pupil's parent or guardian, except that a pupil shall not be required to  
19 participate in community service if the parent or guardian notifies the  
20 principal of the pupil's school in writing that the parent or guardian does  
21 not wish the pupil to participate in community service.

22        (e) Procedures for a pupil in grade nine to prepare a written proposal  
23 that outlines the type of community service that the pupil would like to  
24 perform and the goals that the pupil hopes to achieve as a result of  
25 community service. The pupil's written proposal shall be reviewed by a  
26 faculty advisor, a guidance counselor or any other school employee who is  
27 designated as the community service program coordinator for that school. The  
28 pupil may alter the written proposal at any time before performing community  
29 service.

30        (f) Procedures for a faculty advisor, a guidance counselor or any  
31 other school employee who is designated as the community service program  
32 coordinator to evaluate and certify the completion of community service  
33 performed by pupils.

34        32. To facilitate the transfer of military personnel and their  
35 dependents to and from the public schools of this state, pursue, in  
36 cooperation with the Arizona board of regents, reciprocity agreements with  
37 other states concerning the transfer credits for military personnel and their  
38 dependents. A reciprocity agreement entered into pursuant to this paragraph  
39 shall:

40        (a) Address procedures for each of the following:

41        (i) The transfer of student records.

42        (ii) Awarding credit for completed course work.

43        (iii) Permitting a student to satisfy the graduation requirements  
44 prescribed in section 15-701.01 through the successful performance on  
45 comparable exit-level assessment instruments administered in another state.

1 (b) Include appropriate criteria developed by the state board of  
2 education and the Arizona board of regents.

3 33. Adopt guidelines that school district governing boards shall use in  
4 identifying pupils who are eligible for gifted programs and in providing  
5 gifted education programs and services. The state board of education shall  
6 adopt any other guidelines and rules that it deems necessary in order to  
7 carry out the purposes of chapter 7, article 4.1 of this title.

8 34. For each of the alternative textbook formats of human-voiced audio,  
9 large-print and braille, designate alternative media producers to adapt  
10 existing standard print textbooks or to provide specialized textbooks, or  
11 both, for pupils with disabilities in this state. Each alternative media  
12 producer shall be capable of producing alternative textbooks in all relevant  
13 subjects in at least one of the alternative textbook formats. The board  
14 shall post the designated list of alternative media producers on its website.

15 35. Adopt a list of approved professional development training  
16 providers for use by school districts as provided in section 15-107,  
17 subsection J. The professional development training providers shall meet the  
18 training curriculum requirements determined by the state board of education  
19 in at least the areas of school finance, governance, employment, staffing,  
20 inventory and human resources, internal controls and procurement.

21 36. Adopt rules to prohibit a person who violates the notification  
22 requirements prescribed in section 15-183, subsection C, paragraph 6- 7 or  
23 section 15-550, subsection C from certification pursuant to this title until  
24 the person is no longer charged or is acquitted of any offenses listed in  
25 section 41-1758.03, subsection B. The board shall also adopt rules to  
26 prohibit a person who violates the notification requirements, certification  
27 surrender requirements or fingerprint clearance card surrender requirements  
28 prescribed in section 15-183, subsection C, paragraph 7- 8 or section 15-550,  
29 subsection D from certification pursuant to this title for at least ten years  
30 after the date of the violation.

31 B. The state board of education may:

32 1. Contract.

33 2. Sue and be sued.

34 3. Distribute and score the tests prescribed in chapter 7, article 3  
35 of this title.

36 4. Provide for an advisory committee to conduct hearings and  
37 screenings to determine whether grounds exist to impose disciplinary action  
38 against a certificated person, whether grounds exist to reinstate a revoked  
39 or surrendered certificate and whether grounds exist to approve or deny an  
40 initial application for certification or a request for renewal of a  
41 certificate. The board may delegate its responsibility to conduct hearings  
42 and screenings to its advisory committee. Hearings shall be conducted  
43 pursuant to title 41, chapter 6, article 6.

44 5. Proceed with the disposal of any complaint requesting disciplinary  
45 action or with any disciplinary action against a person holding a certificate

1 as prescribed in subsection A, paragraph 14 of this section after the  
2 suspension or expiration of the certificate or surrender of the certificate  
3 by the holder.

4 6. Assess costs and reasonable attorney fees against a person who  
5 files a frivolous complaint or who files a complaint in bad faith. Costs  
6 assessed pursuant to this paragraph shall not exceed the expenses incurred by  
7 the state board in the investigation of the complaint.

8 Sec. 3. Section 15-512, Arizona Revised Statutes, is amended to read:

9 15-512. Noncertificated personnel; fingerprinting personnel;  
10 background investigations; affidavit; civil immunity;  
11 violation; classification; definition

12 A. Noncertificated personnel and personnel who are not paid employees  
13 of the school district and who are not either the parent or the guardian of a  
14 pupil who attends school in the school district but who are required or  
15 allowed to provide services directly to pupils without the supervision of a  
16 certificated employee and who are initially hired by a school district after  
17 January 1, 1990 shall be fingerprinted as a condition of employment except  
18 for personnel who are required as a condition of licensing to be  
19 fingerprinted if the license is required for employment or for personnel who  
20 were previously employed by a school district and who reestablished  
21 employment with that district within one year after the date that the  
22 employee terminated employment with the district. A school district may  
23 release the results of a background check to another school district for  
24 employment purposes. The employee's fingerprints and the form prescribed in  
25 subsection D of this section shall be submitted to the school district within  
26 twenty days after the date an employee begins work. A school district may  
27 terminate an employee if the information on the form provided under  
28 subsection D of this section is inconsistent with the information received  
29 from the fingerprint check. The school district shall develop procedures for  
30 fingerprinting employees. For the purposes of this subsection, "supervision"  
31 means under the direction of and, except for brief periods of time during a  
32 school day or a school activity, within sight of a certificated employee when  
33 providing direct services to pupils.

34 B. Fingerprints submitted pursuant to this section shall be used to  
35 conduct a state and ~~national~~ FEDERAL criminal records check pursuant to  
36 section 41-1750 and Public Law 92-544. The department of public safety may  
37 exchange this fingerprint data with the federal bureau of investigation.

38 C. The school district shall assume the costs of fingerprint checks  
39 and may charge these costs to its fingerprinted employee, except that the  
40 school district may not charge the costs of the fingerprint check to  
41 personnel of the school district who are not paid employees. The fees charged  
42 for fingerprinting shall be deposited with the county treasurer who shall  
43 credit the deposit to the fingerprint fund of the school district. The costs  
44 charged to a fingerprinted employee are limited to and the proceeds in the  
45 fund may only be applied to the actual costs, including personnel costs,

1 incurred as a result of the fingerprint checks. The fingerprint fund is a  
2 continuing fund which is not subject to reversion.

3 D. Personnel required to be fingerprinted as prescribed in subsection  
4 A of this section shall certify on forms that are provided by the school and  
5 notarized whether they are awaiting trial on or have ever been convicted of  
6 or admitted in open court or pursuant to a plea agreement committing any of  
7 the following criminal offenses in this state or similar offenses in another  
8 jurisdiction:

- 9 1. Sexual abuse of a minor.
- 10 2. Incest.
- 11 3. First or second degree murder.
- 12 4. Kidnapping.
- 13 5. Arson.
- 14 6. Sexual assault.
- 15 7. Sexual exploitation of a minor.
- 16 8. Felony offenses involving contributing to the delinquency of a  
17 minor.
- 18 9. Commercial sexual exploitation of a minor.
- 19 10. Felony offenses involving sale, distribution or transportation of,  
20 offer to sell, transport, or distribute or conspiracy to sell, transport or  
21 distribute marijuana or dangerous or narcotic drugs.
- 22 11. Felony offenses involving the possession or use of marijuana,  
23 dangerous drugs or narcotic drugs.
- 24 12. Misdemeanor offenses involving the possession or use of marijuana  
25 or dangerous drugs.
- 26 13. Burglary in the first degree.
- 27 14. Burglary in the second or third degree.
- 28 15. Aggravated or armed robbery.
- 29 16. Robbery.
- 30 17. A dangerous crime against children as defined in section 13-705.
- 31 18. Child abuse.
- 32 19. Sexual conduct with a minor.
- 33 20. Molestation of a child.
- 34 21. Manslaughter.
- 35 22. Aggravated assault.
- 36 23. Assault.
- 37 24. Exploitation of minors involving drug offenses.

38 E. A school district may refuse to hire or may review or terminate  
39 personnel who have been convicted of or admitted committing any of the  
40 criminal offenses prescribed in subsection D of this section or of a similar  
41 offense in another jurisdiction. A school district which is considering  
42 terminating an employee pursuant to this subsection shall hold a hearing to  
43 determine whether a person already employed shall be terminated. In  
44 conducting a review, the governing board shall utilize the guidelines,  
45 including the list of offenses that are not subject to review, as prescribed



1 by the state board of education pursuant to section 15-534, subsection C. In  
2 considering whether to hire or terminate the employment of a person the  
3 governing board shall take into account the following factors:

4 1. The nature of the crime and the potential for crimes against  
5 children.

6 2. Offenses committed as a minor for which proceedings were held under  
7 the jurisdiction of a juvenile or an adult court.

8 3. Offenses that have been expunged by a court of competent  
9 jurisdiction, if the person has been pardoned or if the person's sentence has  
10 been commuted.

11 4. The employment record of the person since the commission of the  
12 crime if the crime was committed more than ten years before the governing  
13 board's consideration of whether to hire or terminate the person.

14 5. The reliability of the evidence of an admission of a crime unless  
15 made under oath in a court of competent jurisdiction.

16 F. Before employment with the school district, the district shall make  
17 documented, good faith efforts to contact previous employers of a person to  
18 obtain information and recommendations which may be relevant to a person's  
19 fitness for employment. A governing board shall adopt procedures for  
20 conducting background investigations required by this subsection, including  
21 one or more standard forms for use by school district officials to document  
22 their efforts to obtain information from previous employers. A school  
23 district may provide information received as a result of a background  
24 investigation required by this section to any other school district, to any  
25 other public school and to any public entity that agrees pursuant to a  
26 contract or intergovernmental agreement to perform background investigations  
27 for school districts or other public schools. School districts and other  
28 public schools may enter into intergovernmental agreements pursuant to  
29 section 11-952 and cooperative purchasing agreements pursuant to rules  
30 adopted in accordance with section 15-213 for the purposes of performing or  
31 contracting for the performance of background investigations and for sharing  
32 the results of background investigations required by this subsection.  
33 Information obtained about an employee or applicant for employment by any  
34 school district or other public school in the performance of a background  
35 investigation may be retained by that school district or the other public  
36 school or by any public entity that agrees pursuant to contract to perform  
37 background investigations for school districts or other public schools and  
38 may be provided to any school district or other public school that is  
39 performing a background investigation required by this subsection.

40 G. A school district may fingerprint any other employee of the  
41 district, whether paid or not, or any other applicant for employment with the  
42 school district not otherwise required by this section to be fingerprinted on  
43 the condition that the school district may not charge the costs of the  
44 fingerprint check to the fingerprinted applicant or nonpaid employee.

1       H. ~~A school district shall fingerprint or require the submission of a~~  
2 ~~full set of fingerprints of any contractor, subcontractor or vendor or any~~  
3 ~~employee of a contractor, subcontractor or vendor who is contracted to~~  
4 ~~provide services on a regular basis on school property. The school district~~  
5 ~~may charge the costs of the fingerprint check to the contractor,~~  
6 ~~subcontractor or vendor or the employee of the contractor, subcontractor or~~  
7 ~~vendor.~~ A CONTRACTOR, SUBCONTRACTOR OR VENDOR OR ANY EMPLOYEE OF A  
8 CONTRACTOR, SUBCONTRACTOR OR VENDOR WHO IS CONTRACTED TO PROVIDE SERVICES ON  
9 A REGULAR BASIS AT AN INDIVIDUAL SCHOOL SHALL OBTAIN A VALID FINGERPRINT  
10 CLEARANCE CARD PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1. BY DECEMBER  
11 31, 2009, a school district governing board shall adopt policies TO BE  
12 IMPLEMENTED SIXTY DAYS AFTER ADOPTION that may exempt FROM THE REQUIREMENTS  
13 OF THIS SUBSECTION persons who, AS PART OF THE NORMAL JOB DUTIES OF THE  
14 PERSONS, are not likely to have direct, INDEPENDENT ACCESS TO OR unsupervised  
15 contact with pupils ~~from the requirements of this subsection.~~ A school  
16 district, its governing board members, its school council members and its  
17 employees are exempt from civil liability for the consequences of adoption  
18 and implementation of policies and procedures pursuant to this subsection  
19 unless the school district, its governing board members, its school council  
20 members or its employees are guilty of gross negligence or intentional  
21 misconduct. ~~For the purposes of this subsection, "provide services on a~~  
22 ~~regular basis" means services provided by a contractor, subcontractor or~~  
23 ~~vendor at least five times each month on school property.~~

24       I. Subsection A of this section does not apply to a person who  
25 provides instruction or other education services to a pupil, with the written  
26 consent of the parent or guardian of the pupil, under a work release program,  
27 advance placement course or other education program that occurs off school  
28 property.

29       J. Public entities that agree pursuant to contract to perform  
30 background investigations, public schools, the department of education and  
31 previous employers who provide information pursuant to this section are  
32 immune from civil liability unless the information provided is false and is  
33 acted on by the school district to the harm of the employee and the public  
34 entity, the public school, the previous employer or the department of  
35 education knows the information is false or acts with reckless disregard of  
36 the information's truth or falsity. A school district which relies on  
37 information obtained pursuant to this section in making employment decisions  
38 is immune from civil liability for use of the information unless the  
39 information obtained is false and the school district knows the information  
40 is false or acts with reckless disregard of the information's truth or  
41 falsity.

42       K. The superintendent of a school district or chief administrator of a  
43 charter school or the person's designee who is responsible for implementing  
44 the governing board's policy regarding background investigations required by  
45 subsection F of this section and who fails to carry out that responsibility

1 is guilty of unprofessional conduct and shall be subject to disciplinary  
2 action by the state board.

3 L. A school district may hire noncertificated personnel before  
4 receiving the results of the fingerprint check but may terminate employment  
5 if the information on the form provided in subsection D of this section is  
6 inconsistent with the information received from the fingerprint check. In  
7 addition to any other conditions or requirements deemed necessary by the  
8 superintendent of public instruction to protect the health and safety of  
9 pupils, noncertificated personnel who are required or allowed unsupervised  
10 contact with pupils may be hired by school districts before the results of a  
11 fingerprint check are received if all of the following conditions are met:

12 1. The school district that is seeking to hire the applicant shall  
13 document in the applicant's file the necessity for hiring and placement of  
14 the applicant before a fingerprint check could be completed.

15 2. The school district that is seeking to hire the applicant shall do  
16 all of the following:

17 (a) Ensure that the department of public safety completes a statewide  
18 criminal history information check on the applicant. A statewide criminal  
19 history information check shall be completed by the department of public  
20 safety every one hundred twenty days until the date that the fingerprint  
21 check is completed.

22 (b) Obtain references from the applicant's current employer and two  
23 most recent previous employers except for applicants who have been employed  
24 for at least five years by the applicant's most recent employer.

25 (c) Provide general supervision of the applicant until the date that  
26 the fingerprint check is completed.

27 (d) Report to the superintendent of public instruction on June 30 and  
28 December 31 the number of applicants hired before the completion of a  
29 fingerprint check. In addition, the school district shall report the number  
30 of applicants for whom fingerprint checks were not received after one hundred  
31 twenty days and after one hundred seventy-five days of hire.

32 M. Notwithstanding any other law, this section does not apply to  
33 pupils who attend school in a school district and who are also employed by a  
34 school district.

35 N. A person who makes a false statement, representation or  
36 certification in any application for employment with the school district is  
37 guilty of a class 3 misdemeanor.

38 O. For the purposes of this section, "background investigation" means  
39 any communication with an employee's or applicant's former employer that  
40 concerns the education, training, experience, qualifications and job  
41 performance of the employee or applicant and that is used for the purpose of  
42 evaluating the employee or applicant for employment. Background investigation  
43 does not include the results of any state or federal criminal history records  
44 check.

1           Sec. 4. Section 15-534, Arizona Revised Statutes, is amended to read:

2           15-534. Fingerprinting; review and disciplinary action;  
3                 violation; classification

4           A. A person who applies for a certificate as prescribed in section  
5 15-203 shall have a valid fingerprint clearance card that is issued pursuant  
6 to title 41, chapter 12, article 3.1. Applicants who possess a certificate  
7 pursuant to section 15-203 and who apply for additional certificates or who  
8 apply for renewal of any certificate shall meet one of the following  
9 requirements:

10           1. Have a valid fingerprint clearance card issued pursuant to title  
11 41, chapter 12, article 3.1.

12           2. Provide proof of the submission of an application for a fingerprint  
13 clearance card. Applicants who have been denied a fingerprint clearance card  
14 shall also provide proof that the applicant qualifies for a good cause  
15 exception hearing pursuant to section 41-619.55.

16           B. A person who is certified pursuant to section 15-203 shall maintain  
17 a valid fingerprint clearance card during the valid period of the person's  
18 certificate or certificates.

19           C. The state board of education may review and determine whether to  
20 renew or not issue a certificate to an applicant for certification on a  
21 finding that the applicant engaged in conduct that is immoral or  
22 unprofessional or engaged in conduct that would warrant disciplinary action  
23 if the person had been certified at the time that the alleged conduct  
24 occurred. The board shall prescribe guidelines for this process.

25           D. The state board of education may take disciplinary action against  
26 or not renew the certificate of a person on a finding that the certificated  
27 person engaged in conduct that is immoral or unprofessional or engaged in  
28 conduct that would warrant disciplinary action if the person had been  
29 certified at the time that the alleged conduct occurred. The board shall  
30 prescribe guidelines for this process.

31           E. The department of education may issue conditional certification  
32 before an applicant has obtained a valid fingerprint clearance card. A  
33 conditional certificate may be used only for employment in the school  
34 district that submits an application to the department of education for  
35 conditional certification pursuant to this subsection. The state board of  
36 education may revoke conditional certification if the information on the  
37 application for a conditional certificate is false or incomplete, the  
38 applicant is denied a fingerprint clearance card or the conditional  
39 certificate is used for employment in a school district other than the school  
40 district that is indicated on the application for conditional certification.  
41 In addition to any other conditions or requirements deemed necessary by the  
42 superintendent of public instruction to protect the health and safety of  
43 pupils, conditional certification shall be issued before the applicant  
44 obtains a fingerprint clearance card if all of the following conditions are  
45 met:

1           1. The school district that is seeking to hire the applicant verifies  
2 in writing on a form developed by the department of education the necessity  
3 for hiring and placement of the applicant before a fingerprint check is  
4 completed.

5           2. The school district that is seeking to hire the applicant performs  
6 all of the following:

7           (a) Ensures that the department of public safety completes a statewide  
8 criminal records check on the applicant. A statewide criminal records check  
9 shall be completed by the department of public safety every one hundred  
10 twenty days until the date that the fingerprint check is completed.

11           (b) Completes a search of criminal records in all local jurisdictions  
12 outside of this state in which the applicant has lived in the previous five  
13 years.

14           (c) Obtains references from the applicant's current employer and two  
15 most recent previous employers except for applicants who have been employed  
16 for at least five years by the applicant's most recent employer.

17           (d) Provides general supervision of the applicant until the applicant  
18 receives permanent certification from the department of education.

19           F. Before employment, schools or school districts shall verify the  
20 certification and fingerprint status of applicants who apply for school or  
21 school district positions that require certification.

22           G. Any person who participates in a teacher preparation program that  
23 is approved by the state board or any person who is contracted by this state,  
24 by a school district or by a charter school to provide tutoring services  
25 shall obtain a fingerprint clearance card pursuant to this section before the  
26 person participates in field experience IN THIS STATE in which services will  
27 be provided directly to pupils. A PERSON WHO PARTICIPATES IN A TEACHER  
28 PREPARATION PROGRAM THAT IS APPROVED BY THE STATE BOARD AND WHO DOES NOT  
29 PARTICIPATE IN FIELD EXPERIENCE OR STUDENT TEACHING IN THIS STATE SHALL NOT  
30 BE REQUIRED TO OBTAIN A FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION.

31           H. The state board of education shall notify the department of public  
32 safety if the state board of education receives credible evidence that a  
33 person who possesses a valid fingerprint clearance card either:

34           1. Is arrested for or charged with an offense listed in section  
35 41-1758.03, subsection B.

36           2. Falsified information on the form required by subsection A of this  
37 section.

38           I. A person who makes a false statement, representation or  
39 certification in any application for certification is guilty of a class 3  
40 misdemeanor.

41           Sec. 5. Section 15-550, Arizona Revised Statutes, is amended to read:  
42 15-550. Unprofessional conduct; penalty

43           A. A teacher who has been convicted of a dangerous crime against  
44 children as defined in section 13-705 or has been convicted of a violation of  
45 section 13-1404 or 13-1406 in which the victim was a minor or section 13-1405

1 or an act committed in another state or territory which if committed in this  
2 state would have been a dangerous crime against children or a violation of  
3 section 13-1404 or 13-1406 in which the victim was a minor or a violation of  
4 section 13-1405 is guilty of unprofessional conduct and the teacher's  
5 certificate shall be revoked permanently immediately on notification of  
6 conviction by the clerk of the court or the magistrate.

7 B. A teacher who has been convicted of a preparatory offense as  
8 prescribed in section 13-1001 of any of the offenses prescribed in subsection  
9 A of this section or any crime that requires the teacher to register as a sex  
10 offender is guilty of unprofessional conduct and the teacher's certificate  
11 shall be permanently revoked on notification of the conviction by a court of  
12 competent jurisdiction.

13 C. A person who is employed by a school district or who is an  
14 applicant for employment with a school district, who is arrested for or  
15 charged with any nonappealable offense listed in section 41-1758.03,  
16 subsection B and who does not immediately report the arrest or charge to the  
17 person's supervisor or potential employer is guilty of unprofessional conduct  
18 and the person shall be immediately dismissed from employment with the school  
19 district or immediately excluded from potential employment with the school  
20 district. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO ENTITLE A PERSON  
21 DISMISSED PURSUANT TO THIS SUBSECTION TO A RIGHT TO A HEARING PURSUANT TO  
22 SECTION 15-539, SUBSECTION G.

23 D. A person who is employed by a school district and who is convicted  
24 of any nonappealable offense listed in section 41-1758.03, subsection B or is  
25 convicted of any nonappealable offense that amounts to unprofessional conduct  
26 under this section shall immediately do all of the following:

27 1. Surrender any certificates issued by the department of education.  
28 2. Notify the person's employer or potential employer of the  
29 conviction.

30 3. Notify the department of public safety of the conviction.

31 4. Surrender the person's fingerprint clearance card.

32 Sec. 6. Section 41-1758, Arizona Revised Statutes, is amended to read:  
33 41-1758. Definitions

34 In this article, unless the context otherwise requires:

35 1. "Agency" means the supreme court, the department of economic  
36 security, the department of education, the department of health services, the  
37 department of juvenile corrections, the department of emergency and military  
38 affairs, the board of fingerprinting or the board of examiners of nursing  
39 care institution administrators and assisted living facility managers.

40 2. "Division" means the fingerprinting division in the department of  
41 public safety.

42 3. "Good cause exception" means the issuance of a fingerprint  
43 clearance card to an employee pursuant to section 41-619.55.

44 4. "Person" means a person who is required to be fingerprinted  
45 pursuant to any of the following:

1 (a) Section 8-105.  
2 (b) Section 8-322.  
3 (c) Section 8-509.  
4 (d) Section 8-802.  
5 (e) Section 15-183.  
6 (f) SECTION 15-512.  
7 ~~(f)~~ (g) Section 15-534.  
8 ~~(g)~~ (h) Section 15-1330.  
9 ~~(h)~~ (i) Section 15-1881.  
10 ~~(i)~~ (j) Section 26-103.  
11 ~~(j)~~ (k) Section 36-411.  
12 ~~(k)~~ (l) Section 36-425.03.  
13 ~~(l)~~ (m) Section 36-446.04.  
14 ~~(m)~~ (n) Section 36-594.01.  
15 ~~(n)~~ (o) Section 36-594.02.  
16 ~~(o)~~ (p) Section 36-882.  
17 ~~(p)~~ (q) Section 36-883.02.  
18 ~~(q)~~ (r) Section 36-897.01.  
19 ~~(r)~~ (s) Section 36-897.03.  
20 ~~(s)~~ (t) Section 36-3008.  
21 ~~(t)~~ (u) Section 41-619.52.  
22 ~~(u)~~ (v) Section 41-619.53.  
23 ~~(v)~~ (w) Section 41-1964.  
24 ~~(w)~~ (x) Section 41-1967.01.  
25 ~~(x)~~ (y) Section 41-1968.  
26 ~~(y)~~ (z) Section 41-1969.  
27 ~~(z)~~ (aa) Section 41-2814.  
28 ~~(aa)~~ (bb) Section 46-141, subsection A.  
29 ~~(bb)~~ (cc) Section 46-321.  
30 5. "Vulnerable adult" has the same meaning prescribed in section  
31 13-3623.  
32 Sec. 7. Section 41-1758.01, Arizona Revised Statutes, is amended to  
33 read:  
34 41-1758.01. Fingerprinting division; duties  
35 The fingerprinting division is established in the department of public  
36 safety and shall:  
37 1. Conduct fingerprint background checks for persons and applicants  
38 who are seeking employment with licensees, contract providers and state  
39 agencies or seeking employment or educational opportunities with agencies  
40 that require fingerprint background checks pursuant to sections 8-105, 8-322,  
41 8-509, 8-802, 15-183, 15-512, 15-534, 15-1330, 15-1881, 26-103, 36-411,  
42 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01,  
43 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968,  
44 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

- 1           2. Issue fingerprint clearance cards. On issuance, a fingerprint  
2 clearance card becomes the personal property of the cardholder and the  
3 cardholder shall retain possession of the fingerprint clearance card.
- 4           3. On submission of an application for a fingerprint clearance card,  
5 collect the fees established by the board of fingerprinting pursuant to  
6 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the  
7 monies collected in the board of fingerprinting fund.
- 8           4. Inform in writing each person who submits fingerprints for a  
9 fingerprint background check of the person's right to petition the board of  
10 fingerprinting for a good cause exception pursuant to section 41-1758.03.
- 11          5. Administer and enforce this article.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.